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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION FIVE

**HUMBOLDT COUNTY SHERIFF'S  
OFFICE,**

**Petitioner,**

**v.**

**THE SUPERIOR COURT OF  
HUMBOLDT COUNTY,**

**Respondent;**

**LEVI COLE GARZA,**

**Real Party in Interest.**

**A115013**

**(Humboldt County  
Super. Ct. No. CR061501AS)**

THE COURT:\*

Real party in interest Levi Cole Garza (Garza) is confined in the Humboldt County Correctional Facility (jail) pending sentencing on various felony charges. In this writ proceeding, petitioner Humboldt County Sheriff's Office (Sheriff) challenges respondent superior court's order permitting a contact visit between Garza, and Garza's newborn child.

Respondent superior court granted Garza's request for a contact visit with his newborn child based on its findings that the child was born while Garza was in custody,

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\* Before Simons, Acting P.J., Gemello, J. and Bruiniers, J. (Judge of the Contra Costa County Superior Court, assigned by the Chief Justice pursuant to article VI, section 6 of the California Constitution).

the child has had no contact with Garza, “it would be of benefit to the child to have some minimal contact with her biological father” who is “facing up to seven years in state prison” and granting Garza’s request would be “in the best interest of his newly born child.” Respondent misapprehended the standards applicable to Garza’s request.

“[T]he Constitution does not require that detainees be allowed contact visits when responsible, experienced administrators have determined, in their sound discretion, that such visits will jeopardize the security of the facility.” (*Block v. Rutherford* (1984) 468 U.S. 576, 589.) The high court explained: “That there is a valid, rational connection between a ban on contact visits and internal security of a detention facility is too obvious to warrant extended discussion. . . . Contact visits invite a host of security problems. They open the institution to the introduction of drugs, weapons, and other contraband. Visitors can easily conceal guns, knives, drugs, or other contraband in countless ways and pass them to an inmate unnoticed by even the most vigilant observers. And these items can readily be slipped from the clothing of an innocent child, or transferred by other visitors permitted close contact with inmates.” (*Id.* at p. 586.)

The undisputed evidence in the record before us reveals the jail’s legitimate safety and security concerns regarding contact visits. Pursuant to its authority under California Code of Regulations, title 15, section 1062, subdivisions (a) and (c), to develop visitation policies applicable to the minor children of inmates, the jail only permits *noncontact* visits between incarcerated parents and their children, unless such children are subject to juvenile dependency proceedings (see Welf. & Inst. Code, § 300 et seq.). The record contains no evidence that petitioner’s child is the subject of a juvenile dependency proceeding, and petitioner is therefore not entitled to a contact visit with his

newborn child.<sup>1</sup> In light of this conclusion, we need not address other arguments made in the petition.

In accordance with our notification to the parties that we might do so, we will direct issuance of a peremptory writ in the first instance. (See *Palma v. U.S. Industrial Fasteners, Inc.* (1984) 36 Cal.3d 171, 177-180.) Petitioner's right to relief is obvious, and no useful purpose would be served by issuance of an alternative writ, further briefing and oral argument. (*Ng v. Superior Court* (1992) 4 Cal.4th 29, 35; see also *Lewis v. Superior Court* (1999) 19 Cal.4th 1232, 1236-1237, 1240-1241.)

Let a peremptory writ of mandate issue commanding respondent superior court to set aside and vacate its August 18, 2006 order permitting Garza to have a contact visit with his child, and thereafter issue a new and different order denying such a contact visit. This decision shall be final as to this court within five (5) court days. (Cal. Rules of Court, rule 24(b)(3).) This court's previous stay order shall dissolve upon issuance of the remittitur. (*Id.*, rule 26.) No costs are awarded. (*Id.*, rule 56(m).)

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<sup>1</sup> Although the petition filed in this court anticipated that Garza would challenge the validity of the jail's policy, Garza does not do so, and we are constrained to note that Garza raised no such contention in the superior court.